

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 08-CV-20209
HON. GEORGE CARAM STEEH

JIMMY LEE BANKS,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO SET NEW PRETRIAL MOTION
CUT-OFF DATE OF SEPTEMBER 30, 2008 (# 17)

Defendant Jimmy Banks moves for an extension of the pretrial motion cut-off date to September 30, 2008. Oral argument would not significantly aid the decisional process. Pursuant to E.D. Mich. Local R. 7.1(e)(2), it is ORDERED that the motion be resolved without oral argument.

Banks is charged in an April 16, 2008 indictment with one count of felon in possession of a firearm, 18 U.S.C. § 922(g)(1), one count of possession of heroin with intent to distribute, 21 U.S.C. § 841(a)(1), and one count of possession of a firearm in furtherance of a drug trafficking crime, 18 U.S.C. § 924(c). Current retained defense Counsel S. Allen Early was substituted for appointed counsel on July 15, 2008, and filed the instant August 7, 2008 to extend the pretrial motion cut-off date from June 8, 2008 to September 30, 2008. Banks argues his new Counsel requires additional time to study his case, and plans on filing a motion arguing Banks has only one prior conviction, not two, for purposes of the Sentencing Guidelines. The plea cut-off date is currently scheduled for

October 16, 2008, and trial is scheduled for November 4, 2008. The Government filed its response to the motion on September 5, 2008, arguing the anticipated defense motion challenging the Sentencing Guidelines would, at best, be premature.

The court is authorized to set a deadline for the parties to file pretrial motions in a criminal proceeding. Fed. R. Crim. P. 12(c). Although a party waives any Rule 12(b)(3) defense, objection, or request not raised before the pretrial motion deadline set by the court, or any extension the court provides, the court may grant relief of such waiver on good cause shown. Fed. R. Crim. P. 12(e). Under the totality of the circumstances, the court finds defendant Banks has shown good cause for extending the pretrial motion cut-off date to September 30, 2008. The Government, of course, remains free to oppose a pretrial motion challenging the Sentencing Guidelines as premature. Accordingly,

Defendant Banks' motion to extend the pretrial motion cut-off date to September 30, 2008 is hereby GRANTED. The current October 16, 2008 plea cut-off date and November 4, 2008 trial date remain in force and effect until further order of the court.

SO ORDERED.

Dated: September 24, 2008

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 24, 2008, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk